



***MINUTES OF THE ONE-HUNDRED-AND-EIGHTY-SIXTH
MEETING OF THE MERIT BOARD – November 14, 2012***

***State Universities Civil Service System Office
1717 Philo Road, Suite 24
Urbana, Illinois 61802
&
(Video Conference)
University of Illinois at Chicago
College of Pharmacy
Room 270
833 South Wood Street
Chicago, Illinois
&
(Video Conference)
Southern Illinois University Carbondale
Morris Library
Conference Room, 1st Floor
605 Agricultural Drive
Carbondale, IL***

Chair Maitland called the meeting to order at 10:02 a.m.

Members present at the primary meeting location were: Joanne Maitland, Chair, representing Illinois State University; Karen Hasara, representing the University of Illinois; Robert T. Marshall, Jr., representing Northern Illinois University; Lorine Samuels, representing Governors State University; and Robert D. Webb, representing Eastern Illinois University.

Members present at the Chicago videoconference location were: Marvin Garcia, representing Northeastern Illinois University; Patricia Brown Holmes, representing the University of Illinois; and Anthony Young, representing Chicago State University.

Member present at the Carbondale videoconference location was: Donna Manering, representing Southern Illinois University.

Members absent were: Lyneir Cole, representing Western Illinois University; and James D. Montgomery, representing the University of Illinois.

Also present were: Lewis T. (Tom) Morelock, Executive Director; Abby K. Daniels, Legal Counsel and Legal Services Manager; Teresa Rademacher, Secretary for the Merit Board; and Julie Benedict, Chair of the State Universities Civil Service Advisory Committee. Various other university employees and University System Office staff were also in attendance.

Consideration of participation by other Merit Board Members, not physically present at meeting site

No members had requested to participate by teleconference.

Public Comments

Chair Maitland asked if there were any requests for public comments. Mr. Morelock stated that the University System office had received one request to present public comments. Konstantinos Yfantis, Acting Manager, Teaching and Learning Services Group, University of Illinois, requested that either Matt Wheeler or Roy Campbell be allowed to address the Merit Board to articulate the position of the University of Illinois Senate Executive Committee and the Academic Senate from a faculty perspective on the potential loss of exemption authority.

A motion was made by Ms. Hasara and seconded by Dr. Webb to allow Roy Campbell to speak before the Merit Board. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

Mr. Campbell, a Professor at the University of Illinois at Urbana-Champaign (UIUC), also currently serves as the Vice Chair of the Senate Executive Committee of the UIUC Academic Senate and a member of the University Senates Conference of the University of Illinois addressed the Merit Board. Professor Campbell thanked the Merit Board and Merit Board office for their oversight and work for the many state universities. He stated that the Senate Executive Committee had met last week and discussed and endorsed the position that the exemption authority should remain with the university employers. Professor Campbell also stated that he has had the opportunity to work with several academic professionals on many occasions and they provide a huge value to universities. He further stated that the essential part of the hiring process must remain with the university and without it, the universities would lose flexibility. Professor Campbell stated that the key decisions for a centralized agency to determine the exemptions could run into some problems, not to say that they couldn't do it. With the universities making the decision, they know what is needed and the universities need

to be made accountable for their decisions. He further stated that the decision on whether a position is exempt needs to be done at the local level. Professor Campbell invited Mr. Morelock to a meeting to find a way for all parties to work together.

Dr. Webb asked Professor Campbell if he represented any civil service employees. Professor Campbell indicated the Senate did not represent any civil service employees. Dr. Webb gave various statistics on the large number of violations from the samples that the audit team had done and asked him what the problem was. Professor Campbell stated that they needed to work together to see what was wrong with the process that the universities are using and correct that issue. Ms. Hasara stated that she believed exemption authority should remain at the campus level, but did not know what the problems could be. She suggested that a small committee be formed to further discuss this topic and possibly develop recommendations. Mr. Morelock stated that, in accordance with current procedures, these exemptions should be based on a review of the position description and its match to the specifications contained in the classification plan.

Consideration of the Minutes of the 185th Meeting of the Merit Board, August 22, 2012

The minutes of the 185th meeting of the Merit Board, August 22, 2012 had been transmitted to members of the Merit Board with the agenda materials.

Mr. Marshall moved to approve the minutes of the 185th meeting of the University Civil Service Merit Board. Dr. Webb seconded Mr. Marshall's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

Consideration of Discharge Proceeding Number UIUC-12-3 filed against Clifford Mays-Campbell by the University of Illinois at Urbana-Champaign

On October 24, 2012, the Secretary for the Merit Board mailed the Hearing Record for the Clifford Mays-Campbell discharge case (UIUC-12-3) to each member of the Merit Board. The Merit Board was asked to review the case and be prepared to act on this matter at this meeting.

Chair Maitland asked Ms. Daniels to give a summary of the case. Ms. Daniels stated that Mr. Mays-Campbell began his employment with the University of Illinois at Urbana-Champaign (UIUC) as an extra help worker on November 5, 2007. He became a full-time employee as a Building Service Worker in February 2010. A hearing was held on September 5, 2012 and Mr. Mays-Campbell was unrepresented at the hearing. Mr. Mays-Campbell was charged with theft, stealing of a student backpack. The backpack as of today has not been recovered and no search

was ever done of Mr. Mays-Campbell's home. Based on the evidence and testimony provided in this case, the Hearing Officer found that the university had sustained its burden of proof.

Chair Maitland asked for a motion regarding this matter. Ms. Hasara made a motion that Mr. Mays-Campbell be discharged from the University of Illinois at Urbana-Champaign. Dr. Webb seconded Ms. Hasara's motion.

A roll call vote was taken and the motion carried with the following vote:

Ms. Hasara	Aye
Judge Holmes	Aye
Mrs. Maitland	Aye
Dr. Manering	Aye
Mr. Marshall	Aye
Mr. Montgomery.....	Absent
Ms. Samuels	Aye
Dr. Webb	Aye
Mr. Young	Aye
Mr. Cole	Absent
Mr. Garcia.....	Aye

The following decision and order was therefore adopted.

STATE OF ILLINOIS



STATE UNIVERSITIES CIVIL SERVICE SYSTEM

CLIFFORD MAYS-CAMPBELL,

Employee-Petitioner,

v.

**UNIVERSITY OF ILLINOIS at
Urbana-Champaign,**

Employer-Respondent.

) **BEFORE THE UNIVERSITY CIVIL
SERVICE MERIT BOARD**

) **DISCHARGE PROCEEDING**

) **No. UIUC-12-3**

)
)
)
)

DECISION AND ORDER OF THE UNIVERSITY CIVIL SERVICE MERIT BOARD

PROCEDURAL HISTORY

Discharge proceedings have been commenced by the **UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN**, employer, against **CLIFFORD MAYS-CAMPBELL**, employee, by service of Written Charges for Discharge by certified mail on June 18, 2012 and the Employee-Petitioner, **CLIFFORD MAYS-CAMPBELL**, has filed a timely written request for Hearing. A Hearing has been duly convened, held, and concluded on September 5, 2012 in conformity with the procedures set forth in section 250.110(f) of the Illinois Administrative Code (80 Ill. Adm. Code §250.110(f)). The complete Hearing Record has been certified and placed on file in this cause.

FINDINGS

The University Civil Service Merit Board has examined and reviewed the Hearing Record, as supplemented, which includes the following:

1. Written Charges for Discharge, dated June 18, 2012
2. Suspension Notice Pending Discharge, dated June 18, 2012
3. Employee-Petitioner's request for hearing, filed on July 3, 2012 by fax and First Class Mail on July 12, 2012
4. Acknowledgement of Hearing request, dated July 5, 2012
5. Notice of Appearance on behalf of the Employer-Respondent and request for Continuance, dated July 24, 2012
6. Acknowledgement of Continuance to the parties of record, dated July 30, 2012
7. Letter to Mays-Campbell, dated August 6, 2012
8. Notice of Hearing to Hearing Officer Reynolds, dated August 21, 2012
9. Notice of Convening of Hearing to the parties of record, dated August 21, 2012
10. Subpoena request from Employer-Respondent, dated August 28, 2012
11. Subpoena to Nicholas Rice, dated August 29, 2012

12. Transcript of Evidence and Exhibits, September 5, 2012
13. Request for Findings of Fact from Hearing Officer Reynolds, dated September 13, 2012
14. Findings of Fact, rendered by Hearing Officer Reynolds, dated September 28, 2012
15. Certification of Hearing Record, dated October 3, 2012

Now being fully advised of the matters contained in the Hearing Record, as supplemented, and based solely on the matters contained in the Hearing Record, as supplemented, the University Civil Service Merit Board makes the following jurisdictional and factual findings and issues the following Decision and Order:

1. That this discharge proceeding has been commenced and conducted in compliance with section 250.110(f) of the Illinois Administrative Code (80 Ill. Adm. Code §250.110(f)) and all applicable State and Federal Laws and that the University Civil Service Merit Board has jurisdiction of the parties and subject matter thereof.
2. That the Hearing Record, as supplemented, supports and sustain the following charge of the employer, **UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN**, against the employee, **CLIFFORD MAYS-CAMPBELL**, and establishes just cause for discharge;
 - Theft

DECISION AND ORDER

WHEREFORE, IT IS HEREBY ORDERED:

1. The Findings of Fact of the Hearing Officer, attached hereto, are approved and certified to the employer, **UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN**, to the extent not inconsistent with the findings made herein.
2. All other motions or requests are hereby denied.

3. The employee, **CLIFFORD MAYS-CAMPBELL**, is hereby separated from the service of his employer, **UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN**, and that the effective date of his discharge shall be as of November 14, 2012.

DATED AND ENTERED this 14th day of November, 2012.

UNIVERSITY CIVIL SERVICE MERIT BOARD

By: /s/ Joanne Maitland
Chair, University Civil Service Merit Board

ATTEST:

/s/ Teresa M. Rademacher
Teresa M. Rademacher
Secretary for the Merit Board

Update and action on proposed rule change to section 250.50, Examinations, of the Illinois Administrative Code (80 Ill. Adm. Code §250.50)

Mr. Morelock gave an update on the status of the proposed rule change regarding the filing and retention of examination records. Mr. Morelock stated that the proposed rule was published in the Illinois Register on September 28, 2012 and that the First Notice Period is scheduled to end sometime after November 12, 2012. The University System office has not received any comments regarding this proposed rule change.

After discussion, Ms. Samuels made a motion to approve the proposed rule revision and to authorize the University System office to submit the proposed rule revision to the Secretary of State for the Second Notice Period and for final review by the Joint Committee on Administrative Rules. Dr. Manering seconded Ms. Samuels' motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

Update on proposed rule change to section 250.30, The Classification Plan, of the Illinois Administrative Code (80 Ill. Adm. Code §250.30)

Mr. Morelock gave an update on the status of the proposed rule change regarding exemptions. He stated that in the agenda materials were copies of the new proposed amendment to section

250.30 of the Code and a timeline outlining activities over the last few years. Several comments have been received regarding the proposed amendment as published in the Illinois Register. The Joint Committee on Administrative Rules has asked the University System office to provide some guidelines on the process by which positions are to be exempted, irrespective of exemption authority designation. In sections 250.30(b)(1-3) of the Code, the new draft proposal addresses JCAR's concern and provides some general guidelines on how to exempt positions, which are consistent with current procedures in this respect. Sections 250.30(b)(4)(A through E) include the general guidelines for the exemption process and authorization designation for the five categories enumerated under section 36e of the State Universities Civil Service Act. Mr. Morelock further stated that the new proposed revision does two things: 1) it provides guidelines and a direct link to procedures regarding how positions are exempted and 2) it provides a designation of authority in each instance. Mr. Morelock further stated that no action needs to be taken at this meeting, but some action will need to be taken at the next meeting which is scheduled for January 30, 2013.

Ms. Hasara asked what type of comments the University System office has been receiving. Mr. Morelock stated we have received very different comments; one group opposing the change saying exemption authority should remain at the employer level and another group favoring the proposal supporting shifting exemption authority to the University System office.

Mr. Morelock further stated that from 1952 – 1997 the designation was with the University System office and in 1997 it was designated to the employers. Mr. Morelock stated that some guidelines need to be included in the rule on how to exempt positions regardless of who is given that authority.

Implementation/impact of the recent SURS legislation regarding work limitations for Annuitants

Mr. Morelock stated that recently Governor Quinn signed HB 4996 or Public Act 97-0968, referring to the Return to Work bill that imposes penalties on employers if "affected annuitants" return to work and are employed beyond a designated timeframe. The State Universities Civil Service Act, and corresponding administrative rules, contains employer obligations and rights that do not evolve around annuitant status. While both laws are technically compatible, employers may be limited in their capability to proactively avoid financial penalties for civil service employees defined as "affected annuitants" under this new Public Act. Included in the agenda materials were five options to possibly correct the issue. These options will be further explored over the next few months.

Update on audit issues at the University of Illinois at Chicago

Mr. Morelock updated the Merit Board on the recent reports the agency had received from the University of Illinois at Chicago (UIC) regarding the various audit issues. The Job Analysis Report for vacant academic professional positions indicated the following new academic professional positions that were approved by UIC for the following months:

- July 2012 – 13 positions
- August 2012 – 17 positions
- September 2012 – 2 positions

The Monthly Conversions of Academic Professional Positions to Civil Service Positions Report indicated the following:

- July 2012 – 18 positions were converted to Civil Service
- August 2012 – 8 positions were converted to Civil Service
- September 2012 – 11 positions were converted to Civil Service

Biennial Audit Program – Review of Recent Activities

Mr. Morelock updated the Merit Board on the Final Audit Reports that had been completed since the last Merit Board meeting. Following are the audits that had been completed and are posted on the University System office website:

- *Southern Illinois University Edwardsville*
- *University of Illinois College of Medicine Peoria*

Report of the Executive Director

Mr. Morelock provided an agency report which included the following items:

- Agency's FY12 Annual Report; 8,000 more examinations were administered in FY12 than in FY11;
- Update on the Rule of 3 Demonstration Program;
- Agency's budget
 - FY12 and FY13 yearly expenditures were included in the agenda materials and the FY14 preliminary budget was sent to IBHE to begin the budget process;
- Recent classification/examination changes; and

- Information regarding interagency activities with a list of University/Agency visits included in agenda materials.

Report of the Administrative Advisory Committee – Joanne Maitland, Chair

Chair Maitland asked Mr. Morelock to provide this report since she was not able to attend this meeting. Mr. Morelock stated that the committee met on November 7, 2012. A copy of the agenda was included in the agenda materials. The committee was updated on the various topics that have already been discussed at this meeting which included: an update on the adopted rules to sections 250.60, 250.70, 250.90, and 250.110 of the Code; update on the proposed rule revision to section 250.50 of the Code; update on the proposed rule revision to section 250.30 of the Code; implementation of the recent SURS legislation regarding return to work; Rule of 3 Demonstration Project; the transition of the Pilot Program into the Classification Plan; and UIC audit issues.

Report of the State Universities Civil Service Advisory Committee – Julie Benedict, Chair

The Merit Board heard a report from Julie Benedict, Chair of the State Universities Civil Service Advisory Committee. The Committee last met on October 24 and 25, 2012 at Northeastern Illinois University. The committee discussed pension reform and the return to work limitation for SURS annuitants. Mr. Morelock shared information on the Rule of 3 Demonstration Project. The Committee also reviewed the proposed rule revision to section 250.30 of the Code that was discussed at this meeting and the committee is in support of the proposed rule revision. The Committee believes that consistency and accountability is needed. Both the employer groups and the employee groups have different views on the proposed rule revision. The employee groups are concerned on the reversal of what happens to employees when the audit team finds a misclassified position and the employee has to change from an exempt position to a civil service position. The Committee agrees that UIC has made great strides to correct the many audit findings, but UIC is not the only employer that has had audit findings regarding this topic. Many of the other universities have also had problems. Accountability standards need to be the focus of the exemption process, along with the audit process to review these positions. She finished by saying the Committee would like to see the proposed rule revision to section 250.30 of the Code be approved, but if not, the committee is willing to work with whoever to discuss the issue. Dr. Webb appreciated the comment Ms. Benedict made on the effect of the employee when the position is misclassified.

Report of the Human Resource Directors Advisory Committee – Maureen Parks

The Merit Board heard a report from Maureen Parks, representative of the Human Resource Directors Advisory Committee. Ms. Parks stated that the group last met on November 2, 2012. The Committee's discussion focused mostly on the proposed rule revision to section 250.30 of the Code. The new language as presented to the Merit Board at this meeting does nothing to address the concerns that the many HR Directors continue to have. The Committee is hopeful that since no vote was taken by the Merit Board at this meeting, that the Committee can work with the stakeholders to better revise the rule proposal. Ms. Parks further stated that over 500 comments just from the University of Illinois were submitted to the University System office and that there are many more that also oppose of the proposed revision. She reiterated that the HR Directors and the University Officials are very concerned on the number of audit findings that not only the University of Illinois has had, but all of the schools have had recently. She stated that the HR Directors want to do the right thing, but the HR Directors need to know what the right thing is. Ms. Parks said that Mr. Morelock has discussed a mathematical calculation, but the HR Directors want to know what that mathematical calculation is so that necessary protocols can be taken so that employees are not affected when changes have to be made. The Committee would welcome the discussion with the University System office to understand the mathematical equation and to receive guidance and training so that audit findings are not the norm. Mr. Morelock commented that the procedures are out there for the HR Directors. Mr. Parks stated that the HR Directors want to know the mathematical calculation that the University System office uses to review these positions. Ms. Parks further stated that discussion needs to be held to address this issue for the long term. Mr. Morelock confirmed that communications regarding procedures and job audit components have been distributed and available for many years now.

Report of Legal Counsel – Abby K. Daniels, Manager, Legal Services and Legal Counsel

Ms. Daniels updated the Merit Board on some outstanding legal matters. Thus far in FY13 there have been 16 Written Charges for Discharge served on employees at the various universities and agencies. Nine of those employees have requested a hearing. Following is a summary of the outcome of the cases:

- 3 Employee withdrew request before Hearing – (Tillman/UIC, Chao/UIC, Graham/UIC)**
- 1 Settlement Agreement before Hearing – (Shepherd/SIUC)**
- 1 Settlement Agreement during Hearing – (Kaufman/ISU)**
- 1 Resigned before Hearing – (Portree/ISU)**
- 1 Resigned after Hearing – (Nesbitt/UIUC)**
- 1 Discharged – (Mays-Campbell/UIUC, acted on at this meeting)**

1 Pending – (Harvey/UIUC)

There were no pending Administrative Review Cases as this time.

Consideration of the 2013 Schedule of Meetings of the Merit Board

The Merit Board was presented with a meeting schedule for calendar year 2013. Ms. Hasara moved to approve the meeting schedule for calendar year 2013 with a correction to the January meeting date. Mr. Marshall seconded Ms. Hasara's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

The 2013 meeting dates are:

- Wednesday, January 30, 2013
- Wednesday, May 15, 2013
- Wednesday, August 21, 2013
- Wednesday, November 13, 2013

Other Items as Presented

The next meeting of the Merit Board will be on Wednesday, January 30, 2013 at the University System office, with videoconference locations in the Chicago and Carbondale area. Mr. Marshall made a motion to adjourn the meeting. Ms. Hasara seconded Mr. Marshall's motion. A voice vote was taken and approved. The meeting adjourned at 11:07 a.m.

Respectfully submitted,

/s/ Teresa M. Rademacher

Teresa M. Rademacher
Secretary for the Merit Board

APPROVED:

/s/ Joanne Maitland

Chair, University Civil Service Merit Board

January 30, 2013

Date

